

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v David Patrick Toth**
Docket No. **265659**
L.C. No. **04-006183-01**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10),
orders:

The delayed application for leave to appeal from the September 30, 2004 judgment of sentence is DISMISSED seeing as appellant failed to file the application within 12 months of the entry of the judgment in question. MCR 7.202(6)(b)(ii), 7.203(B)(1), and 7.205(F)(3). Moreover, the exceptions found in MCR 7.205(F)(4) are inapplicable in view of the fact that appointed counsel had approximately 6 weeks from the denial of the timely motion for resentencing to prepare a timely delayed application for leave to appeal, but did not.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

OCT 20 2005

Date

Sandra Schultz Mengel
Chief Clerk